

SUBJECT: DEPARTMENT OF ENERGY MANAGEMENT OF CULTURAL RESOURCES

PURPOSE AND SCOPE

The purpose of this Policy is—

- to ensure that Department of Energy (DOE) programs, including the National Nuclear Security Administration (NNSA), and field elements integrate cultural resources management into their missions and activities and
- to raise the level of awareness and accountability among DOE (including NNSA) contractors concerning the importance of the Department's cultural resource-related legal and trust responsibilities.

Preservation and protection of America's cultural heritage are important functions and responsibilities of the Federal government for properties under its control or jurisdiction. This Policy helps ensure that DOE maintains a program that reflects the spirit and intent of the legislative mandates.

AUTHORITY

The major laws, regulations, Executive orders, and guidance shaping DOE's responsibility for cultural resources management are cited in Attachment 1. They include the following:

- the National Historic Preservation Act;
- the Archeological and Historic Preservation Act;
- the Archaeological Resources Protection Act;
- the Native American Graves Protection and Repatriation Act and all its implementing regulations and guidelines;
- Executive Order 11593, Protection and Enhancement of Cultural Environments;
- Executive Order 13175, Consultation and Coordination with Indian Tribal Governments;
- Executive Order 13007, Indian Sacred Sites; and

- the following documents issued by the U.S. Department of the Interior:
 - *Archeology and Historic Preservation: Secretary of Interior's Standards and Guidelines;*
 - *The Secretary of the Interior's Standards and Guidelines for Federal Agency Historic Preservation Programs Pursuant to the National Historic Preservation Act; and*
 - *The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.*

POLICY

Federal laws relating to cultural resources management require that the Department identify, evaluate, and manage cultural resources under its control and jurisdiction. Cultural resources include, but are not limited to, the following broad range of items and locations:

- archaeological materials (artifacts) and sites that date to the prehistoric, historic, and ethnohistoric periods and that are currently located on the ground surface or buried beneath it;
- standing structures and/or their component parts that are over 50 years of age and are important because they represent a major historical theme or era, including the Manhattan Project and the Cold War era and structures that have an important technological, architectural, or local significance;
- cultural and natural places, select natural resources, and sacred objects that have importance for American Indians; and
- American folklife traditions, and arts.

Cultural resources include "historic properties" as defined in the National Historic Preservation Act, "archaeological resource" as defined in the Archaeological Resources Protection Act, and "cultural items" as defined in the Native American Graves Protection and Repatriation Act.

DOE will uphold these laws by preserving, protecting, and perpetuating cultural resources for future generations in a spirit of stewardship to the extent feasible given the agency's mission and mandates. To do this, DOE will implement management accountability for compliance with Federal statutes, Executive orders, treaties, DOE Orders, and implementation guidance. The Department also ensures that DOE contractors are obligated to implement DOE programs and projects in a manner that is consistent with this Policy and that reflects this commitment in site management contracts.

Consultation with affected stakeholders is pivotal to maintaining the cultural and historical values associated with identified cultural resources for future generations and implementing all stewardship responsibilities. Therefore, DOE will consult with State agencies, other Federal agencies, American Indian Tribes and Native Hawaiian organizations, ethnic groups or other communities and individuals, historic preservation interest groups, and additional consulting parties early in the planning process of the proposed undertaking. DOE also will coordinate that planning with all appropriate parties as specified by the requirements of applicable statutes.

RESPONSIBILITIES

1. DOE operations office managers, field office managers, and lead program secretarial officers (LPSOs), including NNSA, assume primary responsibility for implementing this Policy. Accordingly, they ensure the following—
 - a. Tribal consultation occurs through a formal, documented, government-to-government process that is consistent with the DOE American Indian and Alaska Native Tribal Government Policy (see DOE 1230.2). DOE managers are responsible for implementing a tribal identification process, ensuring that government-to-government consultations are established with all appropriate Tribal governments, and requiring that DOE program managers, including NNSA, and contractor management staff consider the concerns, comments, or recommendations made by Tribal governments and address these recommendations when making cultural resource management decisions that are potentially affected by DOE undertakings.
 - b. Procedures are developed to provide, and as circumstances warrant improve access by American Indian Tribes, local historical organizations, and interested persons to cultural resource sites and districts, as appropriate, consistent with safety, health, national security and protection and respect for the cultural resources.
 - c. Responsible DOE, including NNSA, managers will develop, fully implement, and periodically review the cultural resources management plan at all DOE facilities and Government-owned, contractor-operated facilities as needed. Each plan must strive to appropriately reflect local concerns. These plans should be consistent with the *Environmental Guidelines for Development of Cultural Resource Management Plans* (DOE/EH-051, August 1995). Development of these plans will be coordinated with the National Environmental Policy Act documentation, as appropriate.
 - d. Responsible DOE, including NNSA, managers will develop cultural resource management strategies to implement the above plan for specific undertakings. Development of these strategies begins at the local level and incorporates the viewpoint of concerned Federal, Tribal, State, and local governments; historical organizations; and additional consulting parties. These strategies must be—

- documented and integrated into the Department's final management decisions regarding all undertakings potentially affecting cultural resources,
 - reflected in site management contracts, and
 - adhered to through appropriate management measures.
- e. Efforts related to compliance with cultural resources laws, regulations, and guidance will include planning and budgeting appropriate levels of effort and funding for the management of cultural resources. LPSOs and cognizant secretarial officers(CSOs) will carry out these efforts for the sites or facilities for which they have landlord responsibilities. These efforts should integrate cultural resource concerns into program and project planning in a timely fashion to protect cultural resources and avoid unnecessary delays, conflicts, and costs in project implementation. These efforts should include a process for verifying compliance with all applicable requirements.
- f. When cultural resources professionals are utilized, they will meet the qualification standards set forth in *Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines*. Cultural resources professionals may be useful to the Department in working on cultural resources issues and ensuring compliance with Federal cultural resources management laws, regulations, and guidance.
2. The Assistant Secretary for Environment, Safety and Health and the Director of the Office of Management and Administration, in coordination with the Administrator for Nuclear Security, with respect to the NNSA, are responsible for developing and coordinating cultural resource management and historic preservation guidance and Secretarial policy. This includes policy and guidance concerning the analysis of new laws or regulations or the identification of major historic themes that have broad DOE impact or interest and will be periodically reviewed and updated as appropriate. All policies and guidance concerning the analysis of new laws or regulations will be prepared in consultation with the Office of General Counsel.
3. The Assistant Secretary for Congressional and Intergovernmental Affairs, in coordination with the Administrator for Nuclear Security, with respect to NNSA, is responsible for providing guidance and Secretarial policy concerning the Department's relationships with American Indian and Alaska Native governments and related public interest groups.



SPENCER ABRAHAM
Secretary of Energy

REFERENCES

1. Abandoned Shipwreck Act of 1987 (43 U.S.C. 2101).
2. American Folklife Preservation Act of 1976 (20 U.S.C. 2101).
3. American Indian Religious Freedom Act of 1978 (42 U.S.C. 1966).
4. Antiquities Act of 1906 (16 U.S.C. 431).
5. Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469).
6. Archaeological Resources Protection Act of 1979 (16 U.S.C. 470).
7. Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines (48 FR 44716).
8. Consultation and Coordination with Indian Tribal Governments (Executive Order 13175, dated 11-6-00).
9. Curation of Federally Owned and Administered Archeological Collections (36 CFR Part 79).
10. DOE 1230.2, *American Indian Tribal Government Policy*, dated 4-8-92.
11. Determinations of Eligibility for Inclusion in the National Register of Historic Places (36 CFR Part 63).
12. Government-to-Government Relations with Native Americans Tribal Governments (Executive Memorandum, dated 4-29-94).
13. Historic Sites Act of 1935 (16 U.S.C. 461).
14. Indian Sacred Sites (Executive Order 13007, dated 5-24-96).
15. National Environmental Policy Act of 1969 (42 U.S.C. 4321).
16. National Historic Preservation Act of 1966 (16 U.S.C. 470).
17. National Register of Historic Places (36 CFR 60).
18. Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C. 3001).

19. Protection of Archaeological Resources (43 CFR Part 7).
20. Protection and Enhancement of the Cultural Environment (Executive Order 11593, dated 5-13-71).
21. Protection of Historic Properties (36 CFR Part 800).
22. Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb).
23. Reservoir Salvage Act of 1960 (16 U.S.C. 469).
24. The Secretary of the Interior's Standards and Guidelines for Federal Agency Historic Preservation Programs Pursuant to the National Historic Preservation Act (63 FR 20495).